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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

BEE, DENNING, INC., d/b/a
PRACTICE PERFORMANCE
GROUP; and GREGORY CHICK,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

CAPITAL ALLIANCE GROUP; and
NARIN CHARANVATTANAKIT,

Defendants.

NO. 3:13-cv-02654-BAS-WVG

**DECLARATION OF BETH E.
TERRELL IN SUPPORT OF
PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION**

Complaint Filed: 11/5/13

Honorable Cynthia Bashant

DATE: October 20, 2014

TIME: 10:30 a.m.

COURTROOM: 4B, 4th Fl. Schwartz

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

DECLARATION OF BETH E. TERRELL
IN SUPPORT OF PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION

1 I, Beth E. Terrell, declare as follows:

2 1. I am a member of the law firm of Terrell Marshall Daudt & Willie
3 PLLC (“TMDW”), counsel of record for Plaintiffs in this matter. I am admitted
4 to practice before this Court and am a member in good standing of the bars of the
5 States of California and Washington. I respectfully submit this declaration in
6 support of Plaintiffs’ Motion for Class Certification in the above-captioned case.
7 Except as otherwise noted, I have personal knowledge of the facts set forth in this
8 declaration, and could testify competently to them if called on to do so.

9 2. TMDW is a law firm in Seattle, Washington, that focuses on
10 complex civil and commercial litigation with an emphasis on consumer
11 protection, product defect, employment, wage and hour, real estate, and personal
12 injury matters. The attorneys of TMDW have extensive experience in class
13 actions, collective actions, and other complex matters. They have been appointed
14 lead or co-lead class counsel in numerous cases at both the state and federal level.
15 They have prosecuted a variety of multi-million-dollar consumer fraud, wage and
16 hour, securities fraud, and product defect class actions. The defendants in these
17 cases have included companies such as Wal-Mart, Microsoft, Best Buy, Toyota,
18 Sallie Mae, Comcast, ABM Industries, Inc., AT&T, T- Mobile USA,
19 Weyerhaeuser, Behr Products, American Cemwood, Bank of America, Discover
20 Financial Services, Chase, Capital One, and HSBC.

21 3. TMDW has actively and successfully litigated class action lawsuits
22 under the Telephone Consumer Protection Act. TMDW has taken the lead in
23 some of the largest nationwide class actions filed under the TCPA, including
24 those filed against large financial institutions such as Sallie Mae, Bank of
25 America, Chase, Discover Financial Services, Capital One, and HSBC. I have

26
27 DECLARATION OF BETH E. TERRELL
28 IN SUPPORT OF PLAINTIFFS’
MOTION FOR CLASS
CERTIFICATION

1 been appointed co-lead counsel in two of the largest pending MDLs involving
 2 TCPA claims, *In re Capital One Telephone Consumer Protection Act Litigation*,
 3 1:12-cv-10064 (N.D. Illinois), and *In re Monitronics International, Inc.*
 4 *Telephone Consumer Protection Act Litigation*, MDL No. 1:13-MD-2493 (N.D.
 5 W. Va).

6 4. TMDW is litigating or has recently settled the following TCPA class
 7 actions:

- 8 • *In re Capital One Telephone Consumer Protection Act*
 9 *Litigation*—Filed on behalf of consumers who received
 10 automated, pre-recorded collection telephone calls on
 11 their cellular telephone without their prior express
 12 consent within the meaning of the Telephone Consumer
 13 Protection Act, 47 U.S.C. § 227 *et seq.* I serve as court-
 14 appointed Interim Co-Lead Counsel; preliminary
 15 approval of \$75,455,098.74 settlement granted on July
 16 29, 2014.
- 17 • *Rose, et al. v. Bank of America Corp., et al.*—Filed on
 18 behalf of consumers who received automated, pre-recorded
 19 collection telephone calls on their cellular telephone
 20 without their prior express consent within the meaning of
 21 the Telephone Consumer Protection Act, 47 U.S.C. § 227
 22 *et seq.* TMDW worked to negotiate a nationwide
 23 settlement of \$32,083,905, which was recently granted
 24 final approval.
- 25 • *Gehrich v. Chase Bank USA*—Filed on behalf of
 26 consumers who received automated, pre-recorded
 27 collection telephone calls on their cellular telephones
 28 without their prior express consent within the meaning of
 the Telephone Consumer Protection Act, 47 U.S.C. § 227
et seq. TMDW worked to negotiate a \$34,000,000
 nationwide settlement; final approval is pending.

DECLARATION OF BETH E. TERRELL
 IN SUPPORT OF PLAINTIFFS'
 MOTION FOR CLASS
 CERTIFICATION

- 1 • *Wilkins, et al. v. HSBC Bank Nevada, N.A., et al.*—Filed on
2 behalf of individuals alleging that HSBC made
3 pre-recorded calls using an automatic dialing system. The
4 case settled for \$39,975,000 in 2014 on a class-wide basis
5 and final approval is pending.
- 6 • *In re Monitronics International, Inc. Telephone*
7 *Consumer Protection Act Litigation*—Filed on behalf
8 consumers who received automated, prerecorded
9 solicitation telephone calls on their residential and
10 business telephones without their prior express consent
11 within the meaning of the Telephone Consumer
12 Protection Act, 47 U.S.C. § 227 *et seq.*, the Washington
13 Automatic Dialing and Announcing Device statute, RCW
14 80.36.400, and the Washington Consumer Protection
15 Act, RCW 19.86 *et seq.* I serve as co-lead counsel in the
16 MDL.
- 17 • *Arthur v. Sallie Mae, Inc.*—Filed on behalf of consumers
18 who received automated, pre-recorded collection
19 telephone calls on their cellular telephones without their
20 prior express consent within the meaning of the
21 Telephone Consumer Protection Act, 47 U.S.C. § 227
22 *et seq.* TMDW worked to negotiate a \$24.15 million
23 nationwide settlement, and final approval was granted in
24 2012.
- 25 • *Hanley v. Fifth Third Bank*—Filed on behalf of
26 consumers who received automated, pre-recorded
27 collection telephone calls on their cellular telephones
28 without their prior express consent within the meaning of
the Telephone Consumer Protection Act, 47 U.S.C. § 227
et seq. TMDW negotiated a \$4.5 million settlement,
which was granted final approval in December 2013.
- *Steinfeld v. Discover Financial Services, et al.*—Filed on
behalf of consumers who received automated,
pre-recorded collection telephone calls on their cellular

DECLARATION OF BETH E. TERRELL
IN SUPPORT OF PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION

1 telephones without their prior express consent within the
 2 meaning of the Telephone Consumer Protection Act, 47
 3 U.S.C. § 227 *et seq.* TMDW negotiated an \$8.7 million
 4 settlement which was granted final approval in March,
 2014.

- 5 • *Chesbro v. Best Buy*—Filed on behalf of consumers who
 6 received automated, pre-recorded solicitation telephone
 7 calls on their residential telephones without their prior
 8 express consent within the meaning of the Telephone
 9 Consumer Protection Act, 47 U.S.C. § 227 *et seq.*
 TMDW negotiated a \$4.5 million settlement, which is
 currently pending final approval.

10 5. TMDW is currently litigating or has recently settled the following
 11 class actions:

- 12 • *Milligan, et al. v. Toyota Motor Sales, Inc.*—Filed in
 13 2009 on behalf of owners of 2001-2003 Toyota RAV4s
 14 containing defective Electronic Computer Modules,
 15 which cause harsh shifting conditions and permanent
 16 damage to the transmissions. TMDW worked to
 negotiate a nationwide class action settlement, and final
 approval was granted in January 2012.
- 17 • *Soto v. American Honda Motor Corporation*—Filed in
 18 2012 on behalf of owners and lessees of 2008-2010
 19 Honda Accords that consume motor oil at a much higher
 20 rate than intended, due to a systemic design defect. The
 21 case settled on a class-wide basis and final approval was
 granted in March, 2014.
- 22 • *Kitec Consolidated Cases*—Served as co-counsel in a
 23 national class action lawsuit against the manufacturers of
 24 defective hydronic heating and plumbing systems. The
 25 case settled for \$125,000,000, and final approval was
 granted in 2011.

26
 27 DECLARATION OF BETH E. TERRELL
 28 IN SUPPORT OF PLAINTIFFS'
 MOTION FOR CLASS
 CERTIFICATION

- 1 • *Smith v. Legal Helpers Debt Resolution LLC*—Filed in
2 2011 on behalf of consumer who were charged excessive
3 fees for debt adjusting services in violation of
4 Washington law. Class settlements were approved by the
5 Court in December 2012 and December 2013.
- 6 • *Brown v. Consumer Law Associates LLC, et al.*—Filed in
7 2011 on behalf of consumers who were charged
8 excessive fees for debt adjusting services in violation of
9 Washington law. A class settlement was approved by the
10 Court in 2013.
- 11 • *Bronzich, et al. v. Persels & Associates, LLC, et al.*—
12 Filed in 2010 on behalf of consumers who were charged
13 excessive fees for debt adjusting services in violation of
14 Washington law. A class settlement was approved by the
15 Court in 2013.
- 16 • *Newell v. Home Care of Washington, Inc., et al.* —
17 TMDW represents a certified class of more than 400 in-
18 home health care workers who allege violations of state
19 wage and hour law. Trial is set for December 2014.
- 20 • *Hill v. Xerox Business Services, LLC, et al., and Douglas*
21 *v. Xerox Business Services, LLC, et al.*—TMDW
22 represents two certified classes of current and former call
23 center workers who allege violations of state and federal
24 wage and hour laws. Both cases were filed in 2012 and
25 are pending in the United States District Court for the
26 Western District of Washington.
- 27 • *Dickerson v. Cable Communications, Inc., et al.*—Filed
28 in 2012 on behalf of approximately 500 individuals
alleging their employer violated Oregon's wage and hour
laws. Defendants' systematic scheme of wage and hour
violations involved, among other things, failure to pay
non-managerial installation technicians for all hours

DECLARATION OF BETH E. TERRELL
IN SUPPORT OF PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION

1 worked, including overtime. The case settled on a class-
2 wide basis, and approval was granted in 2013.

- 3 • *Khadera v. ABM Industries, Inc.*—TMDW represented
4 337 employees who alleged violations of federal and
5 state wage and hour laws. The case settled, and final
6 approval was granted in 2012.
- 7 • *Simpson v. ABM Industries, Inc.*—TMDW represented a
8 CR 23 class of approximately 6,800 employees who
9 alleged Washington State wage and hour violations. The
10 case settled in March 2012, and final approval of the
11 settlement was granted in September 2012.
- 12 • *Barnett, et al. v. Wal-Mart Stores, Inc.*—Filed in 2001 on
13 behalf of Washington employees alleging wage and hour
14 violations by the country's largest private employer.
15 After more than seven years of litigation, TMDW
16 obtained a settlement of \$35 million on behalf of a
17 certified class of approximately 88,000 employees. The
18 settlement was approved in July 2009.
- 19 • *McGinnity, et al. v. AutoNation, Inc., et al.*—TMDW
20 represented a certified class of more than 500 employees
21 who were denied earned vacation benefits. After nearly
22 two years of litigation before an arbitrator, we obtained
23 an award of \$2.34 million on behalf of the class. We
24 successfully defended the award on appeal, and the
25 Washington Supreme Court denied defendants' petition
26 for review. A judgment in excess of \$2,600,000 was
27 satisfied in September 2009.
- 28 • *Ramirez, et al. v. Precision Drywall, Inc.*—TMDW
represented a certified class of workers who alleged they
were not paid for overtime work. The case was tried
before a jury during a five-week period in 2010, and
TMDW successfully obtained a judgment for the workers

DECLARATION OF BETH E. TERRELL
IN SUPPORT OF PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION

1 in excess of \$4,000,000. TMDW continues to work on
2 enforcing the judgment against multiple defendants.

3 6. I am the lead attorney from TMDW in the instant litigation. A
4 founding member of TMDW, I concentrate my practice in complex litigation,
5 including the prosecution of consumer, defective product, and wage and hour
6 class actions. I have served as co-lead counsel on numerous multi-state and
7 nationwide class actions. I also handle a variety of employment issues including
8 employment discrimination, restrictive covenant litigation, and pre-litigation
9 counseling and advice.

10 7. I received a B.A., magna cum laude, from Gonzaga University in
11 1990. In 1995, I received my J.D. from the University of California, Davis
12 School of Law, Order of the Coif. Prior to forming TMD in May 2008, I was a
13 member of Tousley Brain Stephens PLLC. I am a frequent speaker at legal
14 conferences on a wide variety of topics including consumer class actions,
15 employment litigation, and electronic discovery, and I have been awarded an
16 “AV” rating in Martindale Hubble by my peers.

17 8. I am actively involved in several professional organizations and
18 activities. For example, I currently serve as a Vice President for the Washington
19 State Association of Justice (“WSAJ”), and serve on the WSJ Executive
20 Committee. I am also the current Chair of the WSJ’s Consumer Protection
21 Section. I am the current Vice Chair of the Washington Employment Lawyers
22 Association and a member of the Public Justice Foundation’s Board of Directors.
23 I serve on the Foundation’s Development, Case Evaluation, Membership, and
24 Class Action Preservation Committees.

25 9. I have been repeatedly named to the annual Washington Super
26 Lawyers list (2005, 2010, 2011, 2012, 2013, and 2014) by Washington Law &

27 DECLARATION OF BETH E. TERRELL
28 IN SUPPORT OF PLAINTIFFS’
MOTION FOR CLASS
CERTIFICATION

1 Politics Magazine. I was also named to their Top 100 Washington Super
 2 Lawyers list (2014) and their Top 50 Women Super Lawyers list (2012, 2013 and
 3 2014).

4 10. Mary B. Reiten is a member of TMDW. Ms. Reiten received her
 5 B.A. with high honors from the University of California, Berkeley in 1991 and
 6 graduated from the University of California, Hastings College of Law in 1998.
 7 Prior to joining TMDW, Ms. Reiten was a member of Tousley Brain Stephens
 8 PLLC. Ms. Reiten was also an associate at Lieff Cabraser Heiman & Bernstein
 9 for one year and clerked for the superior courts of Sitka, Alaska and San
 10 Francisco, California. Ms. Reiten has represented plaintiffs in several consumer
 11 class actions, including *Spafford v. EchoStar*; *Hartman, et al. v. Comcast*;
 12 *Richison v. American Cemwood Corp.*; *Zwicker et al. v. General Motors*
 13 *Corporation*; and *Trimble v. Holmes Harbor Sewer District, et al.* In 2004, Ms.
 14 Reiten was named a Washington “Rising Star” by Washington Law & Politics
 15 magazine.

16 11. Whitney B. Stark is an associate at TMDW. Ms. Stark received her
 17 B.A. from Vassar College and graduated from the University of California,
 18 Hastings College of Law. Ms. Stark is a member of the bar of the states of
 19 California, Washington and Oregon. Ms. Stark has extensive experience in
 20 complex litigation, including consumer, employment and civil rights cases. Her
 21 practice emphasizes consumer protection and employment class actions,
 22 including complex wage and hour litigation, employment discrimination, unfair
 23 competition, misrepresentation and fraudulent activities.

24 12. Prior to joining TMDW, Ms. Stark was an associate at Rukin,
 25 Hyland, Doria & Tindall and at the Sturdevant Law Firm where she focused on

26
 27 DECLARATION OF BETH E. TERRELL
 28 IN SUPPORT OF PLAINTIFFS’
 MOTION FOR CLASS
 CERTIFICATION

1 employment and high-impact consumer rights class actions. Ms. Stark has also
 2 litigated fair housing and predatory lending cases at the Fair Housing Law
 3 Project. Ms. Stark served as a judicial extern to the Honorable Magistrate Edward
 4 Chen of the United States District Court for the Northern District of California.

5 13. TMDW is jointly prosecuting this proposed class action with the
 6 Law Offices of Stefan Coleman, PLLC. Mr. Coleman is a graduate of the
 7 University of Virginia and the University of Miami School of Law. Mr. Coleman
 8 is a member of the bar of the states of New York, New Jersey, and Florida. Mr.
 9 Coleman's practice focuses on protecting consumer's privacy rights and from
 10 false advertisements and product defects. Mr. Coleman has prosecuted the
 11 following class actions:

- 12 • *Love v. IdeaVillage Products Corp et al*, a consumer class
 13 action in which purchasers could recover a full refund for
 14 their purchase of an alleged defective product sold by the
 15 defendant. This case resulted in the defendant changing its
 business practice.
- 16 • *Xexo v. iRenew Bio Energy Solutions et al*, a consumer class
 17 action in which purchasers of the iRenew bracelet recovered
 18 for the alleged false advertising by the defendant.
- 19 • *In re Jiffy Lube*, a Telephone Consumer Protection Act case
 20 that resulted in a \$40 million recovery for consumers for the
 21 unsolicited text message advertising. Several major issues of
 22 law were settled in this case resulting in a massive victory
 23 for consumers.
- 24 • *Pimental v. Google Inc.*, a Telephone Consumer Protection Act case
 25 that resulted in a \$6 million settlement for consumers who received a
 26 text message from Google's Slide app.

27 DECLARATION OF BETH E. TERRELL
 28 IN SUPPORT OF PLAINTIFFS'
 MOTION FOR CLASS
 CERTIFICATION

1 14. TMDW, along with the Law Offices of Stefan Coleman, has invested
2 numerous hours and advanced significant costs into the investigation and
3 prosecution of this case, and we have the ability and intention to continue to
4 pursue the case to a successful conclusion.

5 I declare under penalty of perjury under the laws of the State of California
6 and the United States of America that the foregoing is true and correct.

7 Executed this 5th day of September, 2014 at Seattle, Washington.

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10 /s/ Beth E. Terrell, CSB #178181
11 Beth E. Terrell, CSB #178181
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27 DECLARATION OF BETH E. TERRELL
28 IN SUPPORT OF PLAINTIFFS'
 MOTION FOR CLASS
 CERTIFICATION

CERTIFICATE OF SERVICE

I, Beth E. Terrell, hereby certify that on September 5, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Timothy Q. Day, CSB #188732
Email: tday@homan-stone.com
HOMAN & STONE
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Redlands, California 92373
Telephone: (909) 307-9380
Facsimile: (909) 793-0210

Attorneys for Defendants

DATED this 5th day of September, 2014.

TERRELL MARSHALL DAUDT
& WILLIE PLLC

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Attorneys for Plaintiffs

DECLARATION OF BETH E. TERRELL
IN SUPPORT OF PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION